

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS
Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
February 22, 2021 at 6:00 P.M.

PLEDGE OF ALLEGIANCE:

MEMBERS PRESENT: Mike Moesner, Chairman; Jeff Willis, Terry Dayvolt, Doris Horn, Paul Keller, Jeff Valiant.

Also present was Morrie Doll, Attorney, Molly Barnhill, Executive Director, Kim Kaiser and Glenda Schapker, staff.

MEMBERS ABSENT: Mike Winge

MINUTES: Upon a motion made by Jeff Valiant and seconded by Paul Keller the Minutes of the last regular meeting held January 25, 2021 were approved as circulated.

Chairman Moesner explained the Rules of Procedure.

SPECIAL USES:

SPECIAL USE: BZA-SU-21-03

APPLICANT: Custom Sign & Engineering, Inc. by Jack Pipken, Sales

OWNER: Indiana Members Credit Union by Luke Yeager, Market President

PREMISES AFFECTED: Property located on the south side of Bellmoore Drive approximately 0 feet south of the intersection formed by Bellmoore Drive and High Pointe Drive, Lot Numbers 2 & 3 in Corrected Plat Bellmoore Landing Section 1 Subdivision. Ohio, Twp. *8941 Bellmoore Drive*

NATURE OF CASE: Applicant requests a Special Use, SU 8, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow: an ILP to be issued for a 12'x5'9" Message Board in "C-4" General Commercial Zoned District. (*Advertised in The Standard on February 11, 2021*)

Scott Elpers, Custom Sign & Engineering, Inc. and Luke Yeager, Marketing President Indiana Member Credit Union were present.

Scott Elpers stated I am Scott Elpers with Custom Sign, Jack Pipkin is not able to attend tonight. He said I think they changed the name for me to represent Custom Sign.

Chairman Moesner called for a staff report.

Mrs. Barnhill stated on the return receipts we have all of the green cards except for one for 8959 West Bellmoore Drive. She told Scott Elpers if you get that back just bring it in to the office. She said the existing use is a bank. She stated the zoning and land use is "C-4" General Commercial to the east, west, and north with Burger King to the west, a commercial strip mall to the east, and vacant to the north. She said to the south is SR 66 and is zoned "A" Agricultural. She stated both parcels are located in an A Flood Zone but where the bank is located has been removed by a LOMA but not where the sign will be. She said the traffic and street access is they have an existing drive on Bellmoore Drive. She stated the electronic message board will be four feet away from a legal drain. She said the applicant's statement is *This will allow for communication for customers on Highway 66*. She stated the application is in order.

Chairman Moesner asked do you have anything to add to the report.

Scott Elpers replied no.

After ascertaining there were no questions from the Board and there were no remonstrators for or against, Chairman Moesner called for a motion.

I, Terry Dayvolt, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to any required State or Federal Permits.
2. Subject to an Improvement Location Permit being obtained.
3. Subject to any required Building Permits being obtained.
4. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.
5. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.

6. Subject to all public utility easements and facilities in place.
7. Subject to no use of the words, “stop”, “danger”, “look”, or any other word which would confuse traffic.
8. Subject to no revolving beams of light or strobe lights.

The motion was seconded by Doris Horn and unanimously passed.

Mrs. Barnhill stated Scott, we will have your approval ready on Wednesday.

Scott Elpers replied okay, thank you.

SPECIAL USE: BZA-SU-21-04

APPLICANT: Sign Crafters, Inc. by Brenda Owens, Account Executive

OWNER: Warrick County School Corporation by Todd Armstrong, Assistant Superintendent and Business Manager

PREMISES AFFECTED: Property located on the north side of Sharon Road approximately 0 feet northwest of the intersection formed by Lenn Road and Sharon Road. Ohio Twp. 35-6-9 7300 Sharon Road

NATURE OF CASE: Applicant requests a Special Use, SU 8, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow: an 8’8”x2’4 3/8” electronic message board to be added to a new sign and replace the existing reader board in an “A” Agricultural Zoning District. (*Advertised in The Standard on February 11, 2021*)

Brenda Owens, with Sign Crafters, Inc. was present.

Chairman Moesner called for a staff report.

Mrs. Barnhill stated we have all of the green cards except for six but we do have the white pay receipts showing they were mailed correctly. She said the existing land use is Sharon Elementary School. She stated the surrounding zoning and land use to the north is “R-1A” One Family Dwelling being South Broadview No. 3 Section B Amended Plat and “R-2” Multiple-Family being Brentwood Sub and Brentwood Sub Re-plat. She stated to the east is zoned “A” Agriculture with a single-family dwelling. She said to the south is zoned “A” Agriculture with a single-family dwelling, “R-1A” with Abundant Life Church and Shady Woods Subdivision Part 1. She stated also to the south is some “R-1” One Family Dwelling with Rosewood Subdivision. She said to the west is zoned “R-2” Multiple-Family Dwelling being Sharon Meadows Subdivision and Sharon Meadows Sec. B Part 1. She stated there is some AE Flood Plain but not near where the sign will be. She said they have an existing drive on Sharon Road. She said the applicant’s statement is *Updating sign with a LED Message Unit*. She stated this is the School Corporation so an ILP is not required but they are still required to be in zoning compliance.

Chairman Moesner asked is there anything to add to the report.

Brenda Owens replied no I don't.

After ascertaining there were no questions from the Board and there were no remonstrators for or against, Chairman Moesner called for a motion.

I, Jeff Valiant, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to any required State or Federal Permits.
2. Subject to any required Building Permits being obtained.
3. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.
4. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
5. Subject to all public utility easements and facilities in place.
6. Subject to no use of the words, "stop", "danger", "look", or any other word which would confuse traffic.
7. Subject to no revolving beams of light or strobe lights.

The motion was seconded by Paul Keller and unanimously passed.

Mrs. Barnhill stated we can have your approval ready on Wednesday.

Brenda Owens replied okay, thank you.

VARIANCES:

VARIANCE: BZA-V-21-02

APPLICANT: David L. Weddle

OWNER: Heather Jo Weddle

PREMISES AFFECTED: Property located on the north side of Ash Street approximately 560 feet east of the intersection formed by Ash Street and Yellow Banks Trail, Pigeon Twp. Lot Numbers 53 & 57 in Clarks Enlargement to Selvin 7266 Ash St

NATURE OF CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for: a manufactured home (SFD) on a property with an existing mobile home to be removed within 3 months after receiving COO for new SFD, all being in a “R-1A” One Family Dwelling Zoning District. (*Advertised in The Standard on February 11, 2021*)

David & Heather Jo Weddle were present.

Chairman Moesner called for a staff report.

Mrs. Barnhill stated we have all of the return receipts from certified mail to the adjacent property owners. She said the existing land use is a single-family dwelling. She stated the surrounding zoning and land use to the north, east, and west are zoned “R-1A” Single-Family Dwelling and all are vacant. She said to the south is zoned “A” Agriculture with a Single-Family Dwelling or vacant. She stated there is no flood plain and there is an existing drive on Ash Street. She said the applicant’s statement in the application says *We have purchased a manufactured home and are wanting it placed behind our current mobile home. We are needing to stay in our mobile home until our manufactured home is finished. Mobile home will be moved out after new home is finished.* She stated everything is in order.

Chairman Moesner asked if there was anything to add to the report.

Heather Weddle replied no.

Chairman Moesner said it states in the application that you have three months to remove your mobile home after receiving your Certificate of Occupancy. He asked is that okay.

Heather Weddle replied yes.

After ascertaining there were no questions from the Board and there were no remonstrators for or against, Chairman Moesner called for a motion.

I, Paul Keller, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of

the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.

3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is a temporary residence during construction of replacement home.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to an Improvement Location Permit being obtained.
 - b) Subject to a Building Permit being obtained.
 - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d) Subject to all utility easement and facilities in place.

- e) Subject to existing residence being removed within 3 months from issuance of Certificate of Occupancy.

The motion was seconded by Doris Horn and was unanimously approved.

Mrs. Barnhill stated give us until Wednesday and we will have your approval ready so you can move forward on your permit.

Heather Weddle replied okay, thank you guys so much.

ATTORNEY BUSINESS:

Chairman Moesner asked do you have any attorney business.

Attorney Doll responded no, sir.

Chairman Moesner asked have you heard any more about the Hendrickson....

Attorney Doll stated of course that is a BZA BS. He said we have a hearing, my recollection off the top of my head, is March 16, 2021. He said yes, March 16 at 9:30 a.m. He stated Mr. Hendrickson's counsel is requesting an in person live hearing, which the court frowns upon so I'm not sure that will happen, we'll see.

Chairman Moesner replied okay, just keep me updated.

Attorney Doll responded I will.

Terry Dayvolt asked did we not have a....

Attorney Doll stated no, he continued it.

Chairman Moesner stated at the last minute.

Attorney Doll said at the very last minute without telling anybody.

Terry Dayvolt responded that was nice.

Attorney Doll said yes.

Chairman Moesner asked is there anything else, Morrie.

Attorney Doll responded no, thank you.

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Barnhill stated she placed new rules of procedures in the back of your packets for your information and there is nothing else.

Chairman Moesner called for a motion to adjourn.

Doris Horn stated I make a motion that we adjourn. Terry Dayvolt seconded the motion and it carried unanimously. The meeting adjourned at 6:19.

Mike Moesner, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held February 22, 2021.

Molly Barnhill, Executive Director